

ORDINANCE NO. 015-030.S.

AN ORDINANCE AMENDING CHAPTER 7, PART II, OF THE STOCKTON MUNICIPAL CODE BY DELETING DIVISION 1, SECTIONS 7-050 TO 7-068, INCLUSIVE, AND DIVISION 3, SECTIONS 7-080 TO 7-087, INCLUSIVE, AND ENACTING A NEW DIVISION 1, SECTIONS 7-050 TO 7-066, INCLUSIVE AND DIVISION 3, SECTIONS 7-080 TO 7-082, INCLUSIVE, ALL RELATING TO THE COLLECTION OF SOLID WASTE, RECYCLABLE MATERIALS, AND GREEN WASTE AND FOOD WASTE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF STOCKTON, AS FOLLOWS:

SECTION I. AMENDMENT OF CODE.

Chapter 7, Part II, Division 1, sections 7-050 to 7-068, inclusive, and Part II, Division 3, sections 7-080 to 7-087, inclusive, of the Stockton Municipal Code are hereby deleted.

SECTION II. AMENDMENT OF CODE.

Chapter 7, Part II, Sections 7-050 to 7-066 are hereby added to the Stockton Municipal Code and shall read as follows:

Part II
COLLECTION OF SOLID WASTE, RECYCLABLE MATERIALS, AND GREEN WASTE AND FOOD WASTE

Division 1
COLLECTION OF SOLID WASTE, RECYCLABLE MATERIALS, AND GREEN WASTE

SEC. 7-050. DEFINITIONS:

The following words, terms and phrases when used herein shall have the meaning ascribed to them in this Section except where the context clearly indicates a different meaning.

1. "AB 939" - AB 939 means the California Integrated Waste Management Act of 1989 (Division 30, California Public Resources Code), as amended, supplemented, superseded, and replaced from time to time.

2. "Building" - shall mean all other buildings and structures not defined as dwellings.
3. "City" - shall mean the City of Stockton.
4. "City Manager" - The City Manager of the City of Stockton.
5. "Contract Collector" - A person designated as the authorized agent of the City to collect residential, multi-family and commercial solid waste.
6. "Collection" - Collection means the act of collecting solid waste at the place of waste generation by an approved collection agent (public or private) and is distinguished from "removal."
7. "Collector" shall mean persons, firms or corporations authorized by the City Council by franchise, contract or permit to collect and dispose of garbage, rubbish and solid waste on a regularly scheduled basis.
8. "Commercial solid waste" - Commercial solid waste includes all types of solid waste generated by warehouse, wholesale, or retail stores, service establishments of any type, professional offices, hospitals, education, health care, military and correctional institutions, and government offices and other commercial sources and wastes.
9. "Construction and demolition debris" means the debris, used construction materials, dredging, grubbing, and rubble resulting from constructing, remodeling, repair, razing, renovation, demolition, excavation or construction clean-up activities at residential, commercial or governmental buildings, and any other structure or pavement.
10. "Contractor" - The individual, partnership, corporation, joint venture, or other legal entity entering into a contract with the City to perform the collection.
11. "Director" - The Public Works Director of the City of Stockton, acting either directly or through authorized agents.
12. "Disposal site" - Disposal site includes the place, location, tract of land, area or premises in use, intended to be used, or which has been used for the landfill disposal of solid wastes.
13. "Dwelling" - Shall mean a residence, flat, apartment, or other facility used for housing one or more persons, and occupied, in the City of Stockton.

14. "Dwelling unit" - One or more habitable rooms which are intended to be occupied by one (1) family with facilities for living, sleeping, cooking and eating and from which the City collects refuse.
15. "Food Waste" means all source-separated vegetable waste, fruit waste, grain waste, and dairy waste, meat waste, fish waste, food-contaminated paper and other compostable paper (such as pizza boxes, take-out containers, napkins and paper towels), and untreated and unpainted wall board co-collected with green waste.
16. "Garbage" - Garbage includes all kitchen and table food waste, and animal or vegetable waste that attends or results from the storage, preparation, cooking or handling of food stuffs intended for disposal.
17. "Green Waste" means biodegradable materials such as leaves, grass, weeds, and wood materials from trees and shrubs.
18. "Industrial wastes" - Industrial wastes include all types of solid wastes and semi-solid wastes which result from manufacturing facilities, factories, food processors, refineries, and publicly operated treatment works.
19. "Industrial Waste Collector" - A person authorized by the City by permit to collect industrial waste within the City.
20. "Landfill" - Landfill means a disposal site employing a method of disposing of solid wastes on land without creating nuisances or hazards to public health or safety, by utilizing principles of engineering to confine the wastes to the smallest practical area, with a layer of suitable cover material at specific designated intervals.
21. "Multi-family refuse" or "Multi-family solid waste" - Multi-family refuse or multi-family solid waste means solid waste generated by the residents of any building and/or structure, or portion thereof, located in City that is used for residential housing and having four (4) or more distinct living units.
22. "Permittee" - A person authorized by the City by permit to collect industrial wastes, commercial recyclable materials, or construction and demolition debris.
23. "Occupant" - Person(s) occupying residential, commercial, or industrial premises.
24. "Owner" - When used with reference to a dwelling shall mean and shall conclusively be deemed to be the legal owner or the legal owner's agent of the dwelling.
25. "Person" - Any individual, firm, association, partnership, corporation, trust, joint venture or other legal entity.
26. "Premises" - Premises includes a tract or parcel of land with or without habitable buildings or appurtenant structures.

27. "Putrescible wastes" - Putrescible wastes includes wastes that are capable of being decomposed by micro-organisms with sufficient rapidity as to cause nuisances because of odors, gases or other offensive conditions, and include materials such as food wastes, offal and dead animals.

28. "Refuse" - Refuse includes garbage and rubbish.

29. "Recyclable Materials" or "Recyclables" means discarded materials intended for and capable of being recycled, and that are separated, set aside, handled, packaged offered, or otherwise delivered for collection in a manner different from solid waste.

30. "Recycle, Recycled, Recycling" means the process of collection, sorting, cleansing, treating and reconstituting recyclable materials that would otherwise be disposed of, and returning them to the economy in the form of raw materials for new, reused, repaired, refabricated, remanufactured, or reconstituted products. The collection, transportation, or disposal of solid waste not intended for, or capable of, reuse is not recycling.

31. "Removal" - Removal means the act of taking solid wastes from the place of waste generation either by an approved collection agent or by a person in control of the premises.

32. "Residential refuse" or "Residential solid waste" - Residential refuse or residential solid waste includes all types of domestic rubbish which originate in single-family, duplex, triplex premises.

33. "Rubbish" - Rubbish includes non-putrescible solid wastes such as ashes, paper, cardboard, tin cans, yard clippings, wood, glass, bedding, crockery, plastics, rubber by-products or litter.

34. "Solid wastes or wastes" - Solid wastes or wastes include all putrescible and non-putrescible solid and semisolid wastes, such as refuse, garbage, rubbish, paper, ashes, industrial wastes, demolition and construction wastes, abandoned vehicles and parts thereof, discarded home and industrial appliances, manure, vegetable or animal solid and semisolid wastes and other discarded solid and semisolid wastes and also includes liquid wastes disposed of in conjunction with solid wastes at solid waste transfer/processing stations or disposal sites, but excludes:

(a) Sewage collection and treated in a municipal or regional sewerage system, or

(b) Materials or substances having commercial value which have been salvaged for reuse, recycling or resale.

35. "Tenant" - A person who is legally in control of, but is not necessarily the legal owner of, a building, or a part of a building or a dwelling unit or any type of premises. Synonymous with occupant or lessee.

SEC. 7-051. MANDATORY SOLID WASTE SERVICE REQUIRED:

It shall be mandatory for all owners, occupants or persons in possession, charge or control of all dwellings, buildings, places and premises in the City of Stockton in and from which solid waste is created, accumulated or produced to subscribe to and pay for refuse collection service rendered to such dwelling, building, place or premises by a Collector or permittee and shall provide, at a location accessible to the Collector or permittee an adequate container or containers for deposit of refuse of such capacity as the Public Works Director for the City of Stockton may prescribe.

SEC. 7-051.1. FAILURE TO INITIATE SERVICE OR TO PROVIDE SUFFICIENT REFUSE CONTAINERS:

When an owner or occupant fails to initiate adequate refuse collection service within ten (10) days of occupancy of a dwelling by any person, the Public Works Director will give the owner or occupant notification that such service is required. If the owner or occupant does not arrange with the Collector for service within ten (10) days from the date of mailing of the notice, then the Collector shall initiate and continue refuse collection service for said dwelling.

When, in the opinion of the Public Works Director, additional refuse containers or more frequent services are required, they shall be provided for by the owner or occupant upon written notification from the Director.

SEC. 7-051.2. DUTY TO KEEP RIGHT-OF-WAY FREE FROM SOLID WASTE:

Every person in possession, charge or control of, and using, any place or premises in the city fronting on a street, alley or other public right-of-way shall maintain the portion of the street, alley or other public right-of-way adjacent to the place or premises in a condition free from solid waste. For the purposes of this Section, the portion of a street, alley or other public right-of-way adjacent to a place or premises includes any walkway, trail, sidewalk, parkway, curb and gutter, and the travel lane portion of the roadway on the side of the street or alley adjoining the property. The city may provide street sweeping services and collect a fee therefore as a part of the solid waste charge in partial satisfaction of this paragraph.

SEC. 7-051.3. CONTAINERS GENERALLY:

A. All refuse containers shall be kept clean and sanitary and portable by the owner or other person responsible for providing the container under the provisions of this Section.

B. If the collector is permitted or required to provide containers as a provision of its franchise, contract or permit, all containers shall comply with the requirements established by the collector pursuant to the provisions of the franchise, contract or permit.

C. Loading of containers shall be subject to the weight limitations established by the Public Works Director.

D. Separate containers for various types of recyclable materials shall be provided according to written directives issued by the Public Works Director.

SEC. 7-051.4. PLACEMENT FOR COLLECTION:

On collection days, all containers and parcels of refuse shall be placed adjacent to the roadway in a manner that does not block any travel way, parking area or gutter. Loaded containers ready for collection shall not be set out before 6:00 p.m. on the day prior to the regular collection day. Containers shall be returned to a proper storage location on private property and not visible from the public right of way not later than 11:00 p.m. on the day of collection. The City Council may, by resolution, from time to time, prescribe days and hours for the collection of solid waste and recyclable material from property within certain areas of the City. Within such areas all solid waste and recyclable material shall be made available for collection at the designated day and time.

SEC. 7-051.5. PLACEMENT OF WASTE IN CONTAINERS; SEPARATION OF RECYCLABLE MATERIALS:

(a) Waste consisting of flammable liquids, anti-freeze, insecticides, poisons, caustics, acids, explosives, liquid paint or other household hazardous waste material, shall not be placed for collection service, but rather shall be disposed of at designated hazardous, or as otherwise required by law.

(b) Used motor oil and used oil filters may be placed in appropriate containers for collection as designated by the Public Works Director.

(c) Medical waste shall not be placed for collection through solid waste services, but rather shall be disposed of as otherwise required by law.

(d) Recyclable material, green waste and food waste shall be separated from other solid waste for collection. However, the collector shall not refuse to collect solid waste from containers properly placed according to this article because it contains incidental amounts of recyclable material.

(e) Large household or bulky items shall not be placed for collection through the collection services, but rather shall be disposed of by special arrangement through the neighborhood clean up program or bulky item collection program provided by the collector. Placement of excess solid waste or bulky items may be placed for collection as designated by the Public Works Director.

SEC. 7-051.6. PLACEMENT OF BINS:

(a) Bins shall be placed in an accessible, outside location, on a hard surface. Bins shall be kept in enclosures meeting standards approved by the Public Works Director. The Public Works Director may waive the requirement for enclosure of a bin on premises, or may establish a time schedule for implementation of the enclosure requirement upon application by the person responsible for the premises and a finding of good cause. Any such waiver shall be in writing and maintained in the records of the Public Works Department. Locked or inaccessible bins will be serviced only by special arrangement with the collector.

(b) It is unlawful to place a bin in any public street, alley or right-of-way without the express written permission of the Public Works Director upon such terms and conditions as Public Works Director deems appropriate in the public interest.

SEC. 7-051.7. SUMMARY ABATEMENT OF IMPROPER CONTAINERS:

Any container or bin which does not conform with the provisions of this article may be summarily abated as a public nuisance by the city. Such summary abatement shall occur only after a tag giving notice of the non-complying nature of the container has been placed on it and the container has thereafter been used a second time for disposal of solid waste.

SEC. 7-051.8. DESIGN OF PROJECTS TO INCLUDE FACILITIES FOR RECYCLABLE MATERIALS:

New and substantially remodeled commercial, industrial and multi-family residential uses shall be designed to include space for storage and collection of recyclable materials on the premises.

SEC. 7-051.9. SCAVENGING PROHIBITED:

(a) It is unlawful and a misdemeanor for any person to do any of the following:

(1) Scavenge, tamper with, move, remove, tip, deface or destroy, any solid waste collection container, or the contents thereof;

(2) Scavenge, tamper with, move, remove, tip, deface or destroy any collection container for discarded recyclable material or the contents thereof.

(b) This Section shall not apply to activities of the City, the collector, the owner or occupant of a premises, or a person authorized by the City to perform activities under this Chapter.

SEC. 7-051.10. VIOLATIONS:

Any owner or occupant or other person who shall violate any of the provisions of Sections 7-051 through 7-051.9 of this Chapter shall be guilty of a misdemeanor.

SEC. 7-051.11. COLLECTOR ENTITLED TO PAYMENT FOR SERVICES RENDERED:

Pursuant to the provisions of this Chapter, the Collector shall be entitled to payment from the owner or occupant for services rendered. When the owner or occupant has been directed to initiate service and the Collector attempts to collect refuse from the dwelling, then such attempts shall be deemed the rendering of collection service for which Collector is entitled to compensation in the same manner and amount as if refuse had actually been collected.

For multi-family refuse, commercial solid waste and industrial waste, collectors shall bill directly to the owner or occupant for collection services rendered.

SEC. 7-051.12. BILLING AND COLLECTION PROCEDURES FOR RESIDENTIAL SOLID WASTE COLLECTION:

The method of billing for residential solid waste collection service shall be determined by the Administrative Services Officer with the concurrence of the City Manager. Notification of billing period changes shall be provided to all solid waste service customers.

Residential (single family, duplex and triplex units) solid waste collection service will be billed on a unified bill to the customer receiving the bill for water at the service location. Some multifamily units presently have multiple units served by a single water

meter. The customer receiving the bill for water service will be billed for solid waste collection service for the total number of units dedicated to that water meter on a unified bill.

SEC. 7.051.13. CHARGES PAYABLE TO CITY OF STOCKTON OR AUTHORIZED AGENT FOR BILLING AND COLLECTION FOR RESIDENTIAL SOLID WASTE COLLECTION:

All residential solid waste charges shall be payable to the City of Stockton or its authorized agent for billing and collection.

SEC. 7-051.14. DELINQUENCY, PENALTIES AND NONPAYMENT FOR RESIDENTIAL SOLID WASTE COLLECTION:

An account shall be deemed delinquent where payment in full of the unified bill is not received at the office of the City or its authorized agent for billing and collection within twenty-five (25) days of the billing date. A postmark date is not considered the date of payment.

Where all or any part of any bill remains unpaid twenty-five (25) days after the billing date, a basic penalty of ten percent (10%) of the total delinquent amount shall be added to such bill for the first month delinquent. In addition, an amount equal to one percent (1%) per month of the total delinquent amount shall be added to such bill during the time said bill remains unpaid.

Except as otherwise provided by law, if a unified bill remains unpaid more than thirty (30) days after the date of billing, water service at the service location may be terminated. Water service will not be restored until the amount of all delinquent charges and associated service charges, deposits and reconnection charges have been paid in full, or an amortization agreement has been authorized by the City or its authorized agent for billing and collection pursuant to Sections 779 or 10010 of the Public Utilities Code or other applicable statute or regulation.

SEC. 7-051.15. MAINTENANCE OF RECORDS FOR RESIDENTIAL SOLID WASTE COLLECTION:

The Administrative Services Officer or authorized agent for billing and collection is responsible for maintaining adequate records of bills tendered, payments received, delinquencies recorded, cash deposited and charges incurred. The records shall be maintained in accordance with the City's Record Retention policy.

SEC. 7-051.16. PAYMENT OF FEES FOR RESIDENTIAL SOLID WASTE COLLECTION — RESPONSIBLE PARTY; RESPONSIBILITIES OF PROPERTY OWNER:

A. No residential solid waste collection service shall be furnished to any premises free of charge. The water service customer of any single family, duplex or triplex premises is and shall be responsible for the payment of any and all solid waste collection service charges applicable to the premises. It shall be and is hereby made the duty of each water service customer to ascertain from the City of Stockton Administrative Services Department or its authorized agent for billing and collection the amount and due date of any charge applicable to premises and to pay such charges when due and payable.

B. It shall also be and is hereby made the duty of each owner of any premises, to inform the City Administrative Services Department or its authorized agent for billing and collection immediately of all circumstances, and of any change(s) in any circumstance which will in any way affect the applicability of any charge or the amount of any such charge to premises owned by said person. In particular, but not by way of limitations, an owner of any premises shall immediately inform the City Administrative Services Department or its authorized agent for billing and collection of any sale or transfer of any such premises by or to such owner.

SEC. 7-051.17. EXEMPTIONS:

Owners, occupants or persons in possession, charge or control of dwellings, buildings, places and premises in the City of Stockton in and from which it is claimed that no solid waste is created, accumulated or produced so as to require refuse collection services, or that other methods of solid waste collection and disposal are available and will be provided may apply for an exemption from the provisions of this Chapter by making application therefor to the Public Works Director on forms provided by said Director. Upon receiving an application for an exemption, the Director shall cause an investigation to be made concerning the matters contained in the application and into such other matters, as the Director may deem appropriate. If after investigation the Director determines that refuse collection services are not required for the premises described in the application, or that other methods of solid waste collection and disposal are available and will be provided then, in that event, the Director may grant an exemption from the provisions of this Chapter. If an exemption is granted, the Director shall notify the Collector that an exemption has been granted. Said exemption may be revoked at any time thereafter if after investigation the Director determines that circumstances have changed and that refuse collection services are required.

SEC. 7-051.18. ENFORCEMENT CITATIONS:

The Public Works Director and the employees of the Public Works Department as designated by the Director are hereby authorized to issue citations to owners and/or occupants of property for violations of the provisions of this Chapter.

SEC. 7-052. DEPOSIT OF GARBAGE, RUBBISH, OR WASTE MATTER OTHER THAN IN CONTAINERS — UNLAWFUL:

It shall be unlawful for any person in the City of Stockton to throw or deposit any recyclable material, green waste, garbage, rubbish or waste matter or to cause the same to be thrown or deposited upon any street, alley, gutter, park, or other public way or to throw or deposit the same in or upon any premises or vacant lot or in any water or waterway or upon the levees or banks adjacent thereto, or to store or keep the same except in containers as required herein.

SEC. 7-052.1. PERMITTING RUBBISH TO ACCUMULATE IN VICINITY OF RECEPTACLES - PROHIBITED — PENALTY:

It shall be unlawful for any person to permit or allow rubbish to accumulate in the vicinity of solid waste receptacles or areas used for the storage of solid waste receptacles. This Section shall apply to both residential and commercial properties.

Any person, firm or corporation violating this Section shall be deemed guilty of a misdemeanor, and each such person, firm or corporation shall be deemed guilty of a separate offense for each and every day or portion thereof during which a violation of this Section is committed, continued, or permitted.

SEC. 7-053. BURYING GARBAGE, ETC. — PROHIBITED:

It shall be unlawful for any person to bury garbage at any place within the City of Stockton.

SEC. 7-054. COLLECTION OF GARBAGE, RUBBISH, WASTE MATTER, COMMERCIAL SOLID WASTE, INDUSTRIAL WASTE, UNLESS LICENSED — UNLAWFUL:

It shall be unlawful for any person, firm, corporation, or association to collect garbage, rubbish, waste matter, commercial solid waste, or industrial waste within the City of Stockton or transport the same through the streets, alleys and public ways of said City unless such person, firm, corporation or association has been licensed to do so by the City by contract, permit or otherwise.

SEC. 7-055. COLLECTORS:

The City Council of the City of Stockton shall by contract or permit, authorize one or more persons, firms or corporations to collect and dispose of garbage, rubbish, solid waste, residential refuse, multi-family refuse, commercial solid waste and industrial waste within the City of Stockton on a regular scheduled basis. With regard to residential, multi-family and commercial refuse, the manner of collection and other regulations of said residential, multi-family and commercial refuse collectors shall be set forth in the contract, which may include provision of recyclable materials, green waste and food waste collection, and street sweeping and seasonal leaf collection.. With regard to industrial waste, the manner of collection and other regulations of said industrial waste collectors shall be set forth in a separate agreement or permit.

SEC. 7-056. COLLECTION AND DISPOSAL OF SOLID WASTE — CHARGES AND RATES:

The charges or rates that persons, firms or corporations authorized by contract to collect and dispose of residential refuse, multi-family refuse, and commercial solid waste within the City of Stockton may charge, shall be established from time to time by resolution of the City Council of the City of Stockton. The charges or rates for other solid waste collection services, including industrial waste collection and commercial recyclable material collection, shall be established by the collector.

SEC. 7-057. COMMERCIAL RECYCLABLE MATERIAL COLLECTORS — PERMIT REQUIRED:

It shall be unlawful for any person, firm or corporation to collect commercial recyclable material within the City of Stockton without first having obtained a permit to do so from the Public Works Director and a business license therefor from the Administrative Services Officer. The fee for said permit and license shall be established from time to time by resolution of the City Council. Said permit or license shall expire on May 30th of each year and must be renewed annually on or before said date.

SEC. 7-058. COMMERCIAL RECYCLABLE MATERIAL COLLECTORS:

Persons, firms or corporations licensed as Commercial Recyclable Material Collectors are hereby authorized to collect recyclable materials from commercial and industrial customers within the City of Stockton provided that at least ninety percent (90%) of each load is actually recycled and not disposed of.

SEC. 7-059. INDUSTRIAL WASTE COLLECTORS — PERMIT REQUIRED:

It shall be unlawful for any person, firm or corporation to collect and dispose of industrial waste within the City of Stockton as an Industrial Waste Collector without first having received a permit to do so. Said permit shall be issued upon majority vote of the City Council. The fee for the issuance of said permit shall be the sum of one hundred thousand dollars (\$100,000.00). Any such permit issued pursuant to this Section shall not be transferable to another person, firm or corporation, and in the case of corporations the permit shall become void whenever there may occur a transfer of the majority interest in said corporation. Said permit or license issued prior to May 30, 2009, shall expire on May 30, 2009, and may be renewed up to two (2) additional times for a period not to exceed five years each. All permits shall expire on May 30, 2019. This constitutes the City of Stockton's five-year notice that may or may not be required under Public Resources Code Section 49520.

Commercial and Industrial Waste Collector permits issued prior to June 1, 2003, shall remain in full force and effect until May 30, 2009. On or before the expiration date, permit holders shall be eligible to apply for an Industrial Waste Collector permit pursuant to this section.

SEC. 7-060. INDUSTRIAL WASTE COLLECTOR — PERMIT FEE AND AB 939 FEE:

In addition to the initial permit fee mentioned in Section 7-059, for the privilege to provide service pursuant to permit, the Industrial Waste Collector shall pay to the City of Stockton twenty percent (20%) of the gross revenue collected for performing industrial waste collection services. The Industrial Waste Collector shall also pay to the City of Stockton an AB 939 fee equal to three and one-half percent (3.5%) of gross revenue collected for performing industrial waste collection services.

For the purpose of this Section only, no such additional fee will be due and payable to City for revenues derived from the direct or indirect sale of reclaimed solid waste or its derivatives. However, this provision shall not be construed to exempt revenue from any element of the services to collect such industrial waste.

On or before the fifteenth day of each month, the Industrial Waste Collector shall submit to the Administrative Services Officer a statement of gross revenues collected pursuant to the permit for the preceding month, with the appropriate remittance in full. Such statement shall separately show gross revenue from the sale of reclaimed refuse for the preceding month.

The Industrial Waste Collector shall, from the sources of revenue available to the Collector through the granting of the permit, pay all fees and charges due the City as provided for in this subsection. A five percent (5%) penalty shall apply to a delinquent

payment for the first month, and a one percent (1%) penalty shall be added for each succeeding month thereafter until the delinquent balance is paid in full.

Permit holders of Commercial and Industrial Waste Collector permits issued prior to June 1, 2003, shall also pay to the City of Stockton twenty percent (20%) of the gross revenue collected for performing commercial and industrial waste collection services and shall also pay an AB 939 fee equal to three and one-half percent (3.5%) of gross revenue collected for performing commercial and industrial waste collection services.

SEC. 7-061. INDUSTRIAL WASTE COLLECTOR — DIVERSION REQUIREMENT:

The Industrial Waste Collector shall divert from disposal at least fifty percent (50%) of all materials collected in performing all industrial waste collection services.

Permit holders of Commercial and Industrial Waste Collector permits issued prior to June 1, 2003 shall also divert from disposal fifty percent (50%) of all materials collected in performing all commercial and industrial waste collection services

SEC. 7-062. INDUSTRIAL WASTE COLLECTOR — FINANCIAL REPORTS TO CITY:

Every Industrial Waste Collector who has obtained a permit to provide industrial waste collection services within the City of Stockton, shall at any time deemed necessary by the City Manager, make available to City all accounting records that pertain to any portion of the Industrial Waste Collector's operations within the scope of the permit issued pursuant to Section 7-059.

Annually the Industrial Waste Collector shall provide City with a minimum of fifteen (15) copies of its annual audited financial statements prepared by an independent certified or public accountant. The statements shall be prepared by the independent auditor in conformance with accepted accounting principles. Such statements shall be provided City within one hundred twenty (120) days after the close of the Collector's fiscal year. The financial statements shall clearly indicate the Industrial Waste Collector's activities within the City and the City shall insist that the financial statements do not reflect any other business activities that are carried on by the Collector in any other area or jurisdiction other than the City of Stockton. The City reserves the right to request and the Industrial Waste Collector shall provide any additional documentation, itemization or detail as requested by City, to verify any amounts reported in monthly revenue reports and annual financial statements.

SEC. 7-063. REGULATIONS—COMMERCIAL RECYCLABLE MATERIAL COLLECTORS AND INDUSTRIAL WASTE COLLECTORS:

Every vehicle used for the collection of commercial recyclable material, rubbish, waste matter, or industrial waste shall have a metal-lined body and be covered or operated so as to prevent the contents from falling, spilling, leaking, blowing or dripping there from.

SEC. 7-064. COMMERCIAL RECYCLABLE MATERIAL COLLECTORS AND INDUSTRIAL WASTE COLLECTORS —TONNAGE REPORTS TO CITY:

Every Commercial Recyclable Material Collector and every Industrial Waste Collector who has obtained a permit to provide collection services within the City of Stockton, and every permit holder of a Commercial and Industrial Waste Collector permit issued prior to June 1, 2003, shall at any time deemed necessary by the Public Works Director, make available to City all disposal and diversion records that pertain to any portion of collection services within the scope of the permit issued pursuant to Section 7-057 or Section 7-059.

Every Commercial Recyclable Material Collector and Industrial Waste Collector, and every permit holder of a Commercial and Industrial Waste Collector permit issued prior to June 1, 2003, shall provide a quarterly report to the City of total tons disposed and tons diverted through provision of commercial recyclable material collection or industrial waste collection services in the City of Stockton. Quarterly reports to the City shall be due on the 15th day of the month following the previous calendar quarter.

SEC. 7-065. PUBLIC WORKS DIRECTOR — DUTIES:

The Public Works Director shall monitor and provide overall direction for the collection and disposal of garbage, rubbish, waste matter, commercial solid waste, and industrial waste operations in the City of Stockton. The Public Works Director, or said Director's authorized representatives, shall receive and investigate all complaints and endeavor to improve and extend the garbage, rubbish, waste matter, commercial solid waste and industrial waste collection services. In the absence of other regulations, the Public Works Director shall have the power to determine and set the hours of collection, manner of collection and such other regulations as may be necessary to insure an orderly program for the collection, transportation and disposal of garbage, rubbish, waste matter, commercial solid waste and industrial waste in order to promote the community welfare, convenience, health and safety. All disputes between collectors and producers concerning charges, service or any other matter not otherwise delegated shall be decided by the Public Works Director, or said Director's authorized representative. The Public Works Director, or said Director's authorized representative, is hereby directed and empowered to enforce the provisions set forth herein and he or

she shall have the right to enter all premises or vehicles for the purpose of making any inspection or investigation which he or she may deem necessary under the provisions hereof.

In the event an industrial establishment is unable to secure the services of any industrial waste collector who has received permits to do so under the provisions of this Chapter, then, in that event the Public Works Director may assign a permittee to service that particular establishment at a reasonable rate to be determined by the Public Works Director.

An Industrial Waste Collector shall allow access to its records of customers served by said Collector, when requested by the Public Works Director, provided, however, said records shall be held confidentially by said Director and not subject or open to public inspection.

SEC. 7-066. APPEAL:

Any person dissatisfied with any action taken or any decision made by the Public Works Director with regard to the provisions of this Division may appeal pursuant to the provisions of Chapter 1, Part VII, Division 7 of this Code.

SECTION III. AMENDMENT OF CODE.

Chapter 7, Part II, Division 3, sections 7-080 to 7-082 are hereby added to the Stockton Municipal Code and shall read as follows:

**Division 3
COLLECTION OF CONSTRUCTION AND DEMOLITION DEBRIS**

SEC. 7-080. FINDINGS.

(A) The State of California through its California Waste Management Act of 1989, Assembly Bill 939 (AB 939), requires that each local jurisdiction in the state divert 50% of discarded materials (base year 1990, state methodology) from landfill.

(B) The City could face fines up to \$10,000 a day for not meeting the above mandated goal.

(C) Construction and demolition debris constitutes a large portion of the waste stream in the City. These materials have significant potential for waste reduction and recycling.

(D) The City finds that reusing and recycling collection and demolition debris is essential to further the City's efforts to reduce waste and comply with AB 939.

(E) Collection and demolition debris waste reduction and recycling have been proven to reduce the amount of such material that is landfilled, increase site and worker safety, and be cost effective.

(F) Except in unusual circumstances, it is feasible to divert an average of at least fifty (50) percent of all construction and demolition debris from construction, demolition, and renovation projects.

SEC. 7-081. CONSTRUCTION AND DEMOLITION DEBRIS COLLECTION:

Any construction contractor, landscape contractor, or individual may transport and dispose of debris from a construction or demolition or landscaping site at which the contractor or individual is performing work, so long as the contractor or individual utilizes its own personnel and equipment and has secured any necessary hauling permits from the City.

All construction and demolition debris collection conducted by third parties must be provided by a contract collector or Industrial Waste Collector permitted by the City.

SEC. 7-082. CONSTRUCTION AND DEMOLITION DEBRIS RECYCLING:

All persons seeking a new building or a demolition permit shall identify all materials expected to be generated as a result of the building or demolition project at the time of the permit application.

Permittees for all new building construction projects or complete building demolitions are required to recycle at least fifty percent (50%) of materials generated for discards by the project.

Within sixty (60) days following the completion of the construction or demolition project, the permittee shall submit recycling and disposal documentation to the Public Works Director. Documentation shall consist of a final completed "Construction and Demolition Debris Recycling Report" showing tons recycled and disposed by material type, supported by copies of weight tickets, receipts or other records of measurement from recycling companies, deconstruction contractors and/or landfill disposal companies.

SECTION IV. SEVERABILITY .

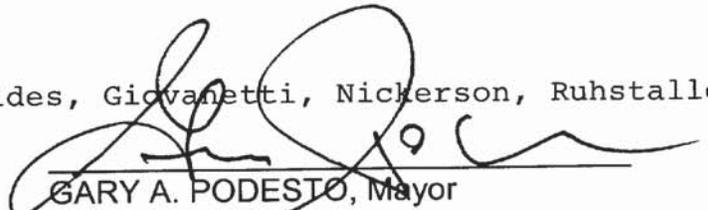
If the event any section or portion of this ordinance shall be determined invalid or unconstitutional, such section or portion shall be deemed severable and all other sections or portions hereof shall remain in full force and effect.

SECTION V. EFFECTIVE DATE.

This ordinance shall go into effect on June 1, 2004.

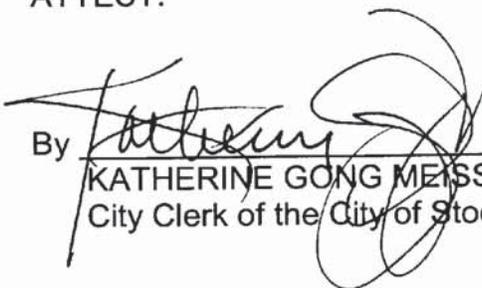
ADOPTED: APR 29 2003
VOTE: *AYES 5 NOES 1 ABSENT 1
EFFECTIVE: JUN - 1 2004

*Ayes: Councilmembers Bestolarides, Giovanetti, Nickerson, Ruhstaller,
Vice Mayor Nomura
Noes: Mayor Podesto
Absent: Martin



GARY A. PODESTO, Mayor
of the City of Stockton

ATTEST:

By  
KATHERINE GONG MEISSNER
City Clerk of the City of Stockton

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